

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF GRAFTON
ANNUAL TOWN ELECTION WARRANT**

**ARTICLE 42. AMENDMENT TO THE GRAFTON ZONING BY-LAWS ZBL
DEFINITIONS SECTION 2.3**

To see if the Town will vote to amend the Zoning By-Laws by adding the following:

1. ZBL Definitions Section 2.3: Amend to include the proposed definitions below

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Off-Site Medical Marijuana Dispensary (OMMD) — A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

2. **ZBL** Section 3.2.3.1 — Use Regulation Table: Amend to read:

PRINCIPAL USES

DISTRICTS

Business Uses	A	R40	R20	RMF	NB	CB	I	OLI	VMU	FP	WSPO
22. Registered Marijuana Dispensary (RMD)	N	N	N	N	N	N	S	S	N	-	—
23. Off-Site Medical Marijuana Dispensary (OMMD)	N	N	N	N	N	P	P	P	N	-	---

Submitted by: Planning Board



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PLANNING BOARD

PLANNING BOARD REPORT FOR ANNUAL TOWN MEETING MAY 9, 2016

Article 42: ZBL-2016-1

Amendment to the Grafton Zoning By-Laws Definition Section 2.3 and Use Regulation Table for Registered Marijuana Dispensary and Off-Site Medical Marijuana Dispensary

At its meeting on March 28, 2016 the Grafton Planning Board conducted a public hearing to consider proposed amendments to Section 2.1 Definitions and Section 3.2.3.1 Use Regulation Table, relating to Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries. Board members present were Vice Chairman Michael Scully, Clerk Robert Hassinger, and Members David Robbins and Linda Hassinger. Public comment on the article was received and is summarized below.

Medical Marijuana was approved by residents of Massachusetts in 2012. In recent years, facilities have begun to be approved in locations in the region. In Grafton, medical marijuana dispensaries that include cultivation and processing would likely be considered an industrial use and off-site medical marijuana dispensaries are considered a retail use. The proposed bylaw amendment as printed in the warrant defines Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries and identifies how those uses are regulated within the Town's Zoning Districts.

The Article regulates Registered Marijuana Dispensary as a special permit use within the Office Light Industrial and Industrial Districts and as not permitted within the Agricultural (A), Low Density Residential (R-40), Medium Density Residential (R-20), Multi-Family Residential (RMF), Neighborhood Business (NB) and Community Business (CB) Districts.

The Article also regulates Off-Site Medical Marijuana Dispensary as a permitted use with Site Plan Approval in the Community Business (CB) District, Office/ Light Industry (OLI), and Industrial (I) Districts and as not permitted with the Agricultural (A), Low Density Residential (R-40), Medium Density Residential (R-20), Multi-Family Residential (RMF), Neighborhood Business (NB) Districts.

The Planning Board received public comment concerning the proposed article. Residents stated that the use needs to be regulated more than the current article language; that medical marijuana needs to be regulated like other businesses in town. Another resident commented

that the Planning Board should craft a comprehensive bylaw that defines where “children congregate,” that provides a better definition of “buffer” rather than the State’s current 500 foot buffer, that limits hours of operation, security, landscaping, and that includes penalties for non-compliance. Residents also questioned what would happen to approved facilities if the State approved recreational marijuana in the fall. The Board did receive comments in support of the article. A resident commented that medical marijuana has been shown to provide significant relief for patients and that the sale of medical marijuana should not be treated any differently than the sale of alcohol.

The Planning Board acknowledged that a more comprehensive bylaw could be prepared to regulate medical marijuana facilities. However, the time and public process that would be necessary to develop a comprehensive bylaw was not available, and the definition and regulation of the Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries is a necessary first step in the development of a more comprehensive bylaw. The Board stated that existing State siting requirements provide the Board with buffer, landscaping, security provisions that would be incorporated into its review process.

The Board discussed whether site plan review was adequate for Off-Site Medical Marijuana Dispensaries. Recognizing the possibility of recreational marijuana becoming legal through the approval of legislation or a ballot vote in the fall, the Board voted to offer an amendment on Town Meeting floor to the article changing Off-Site Medical Marijuana Dispensaries from being permitted with site plan review to being permitted with the issuance of a special permit as shown in the following table.

Business Uses	A	R40	R20	RMF	NB	CB	I	OLI	VMU	FP	WSPO
23. <u>Off-Site Medical Marijuana Dispensary (OMMD)</u>	N	N	N	N	N	P S	P S	P S	N	-	---

Note: N = Not Allowed, P = Site Plan, S = Special Permit

The regulation of these uses by special permit will allow for the Board to require compliance with State siting requirements for such facilities that include buffer area requirements of 500 feet from locations that children congregate, but also allow the Board to properly condition such facilities and require no change to such facilities without a hearing before the Planning Board. The ability to restrict approved facilities to only dispense for medicinal purposes is only available through the special permit process. Since it is not legal to prohibit the uses in its entirety, the Board believes that requiring a special permit for medical marijuana facilities is the appropriate level of review and maximizes protection for the town and neighborhoods.

Responding to comments against the article, the Board is of the opinion that failure to pass this article may lead to the establishment of Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries with limited or no local review of such facilities. Furthermore without a special permit process, any facility that came into town would not be able to be

conditioned to require a public hearing process for the modification of special permit decision to allow sale of recreational marijuana products. The Board recognizes the necessity to develop a more comprehensive bylaw and has committed to draft language for a future town meeting. The Board believes the regulation of these uses is a first step in the development of a comprehensive bylaw and that it is in the Town's best interest to adopt the bylaw as amended.

Based on the testimony received and its deliberations on the merits of the proposed amendment, the Planning Board voted unanimously **TO RECOMMEND ACCEPTANCE** of the this article **with the proposed amendment**.